

## REMARKS

Reconsideration of the subject application in view of the present amendment is respectfully requested.

By the present amendment, Claim 1 has been amended to overcome a formal objection thereto by the Examiner and to yet more clearly define the claimed invention.

Based on the foregoing amendments and the following remarks, the application is deemed to be in condition for allowance, and action to that end is respectfully requested.

The Examiner rejected claims 1-6 and 8 under 35 U.S.C §102(b) as being anticipated by Harrison, British Patent No. 704,991 (Harrison). Claim 7 was rejected under 35 U.S.C §103(a) as being unpatentable over Harrison in view of Olvera et al., U.S. Patent No. 5,897,045 (Olvera). Claim 9 was rejected as claim 7 above and further in view of MacDonald, U.S. Patent No. 3,965,950 (MacDonald). It is respectfully submitted that claims 1-9 are patentable over the cited references.

Specifically, claim 1 recites an ejector that penetrates into the intermediate securing means to eject a fastening element therefrom. No such ejector is shown in Harrison.

Harrison discloses a screwdriver having a chute (6) along which screws are fed from a hopper (4) to a position beneath the screw-driver bit. The chute (6) feeds the screws above pocket (8) into which they fall under action of gravity. A strip-shaped selector (9) acts in effect as stop means, allowing only one screw to pass into pocket (8). As the screws fall beneath the screw-driver bit under force of gravity, no ejector is needed in Harrison.

It is noted that the selector (9) is not designed to prevent displacement of the fastening elements (screws) back into the feeding path. In Harrison, the screws, as soon as they pass the slot (12) in the selector (9), are displaced by the force of gravity and, therefore, are not able to pass back.

A rejection based on U.S.C. § 102 as in the present case, requires that the cited reference disclose each and every element covered by the Claim. Electro Medical Systems S.A. v. Cooper Life Sciences, 32 U.S.P.Q. 2d 1017, 1019 (Fed. Cir. 1994); Lewmar Marine Inc. v. Barient Inc., 3 U.S.P.Q. 2d 1766, 1767-68 (Fed.

Cir. 1987); Verdegaal Bros., Inc. v. Union Oil Co., 2 U.S.P.Q. 2d 1051, 1053 (Fed. Cir. 1987). The federal Circuit has mandated that 35 U.S.C. § 102 requires no less than “complete anticipation . . . [a]nticipation requires the presence in a single prior art disclosure of all elements of a claimed invention arranged as in the claim.” Connell v. Sears, Roebuck & Co., 220 U.S.P.Q. 193, 198 (Fed. Cir. 1983); See also, Electro Medical Systems, 32 U.S.P.Q. 2d at 1019; Verdegaal Bros., 2 U.S.P.Q. 2d at 1053.

Harrison neither disclose all elements covered by Claim 1, nor are the elements arranged as in the claim.

Since Harrison fails to disclose each and every feature of independent Claim 1, Harrison, as a matter of law, does not anticipate or make obvious the present invention, as defined by said independent claim.

In view of the above, it is respectfully submitted that Harrison does not anticipate or make obvious the present invention as defined in Claim 1, and the present invention is patentable over Harrison.

Olvera and MacDonald likewise do not disclose the novel features of the present invention.

Claims 2-9 depend on Claim 1 and are allowable for the same reasons Claim 1 is allowable and further because of specific features recited therein which, when taken alone and/or in combination with features recited in Claim 1 are not disclosed or suggested in the prior art.

### **CONCLUSION**

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance, and allowance of the application is respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place the case in condition for final allowance, it is respectfully requested that such amendment or correction be carried out by Examiner's Amendment and the case passed to issue. Alternatively, should the Examiner feel that a personal

discussion might be helpful in advancing this case to allowance, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail and addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on May 6, 2005.

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